



**Billing Code 6355-01-P**

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Parts 1112 and 1238**

**[Docket No. CPSC-2018-0015]**

**Safety Standard for Stationary Activity Centers**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Danny Keysar Child Product Safety Notification Act, Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission, or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is proposing a safety standard for stationary activity centers in response to the direction under Section 104(b) of the CPSIA.

**DATES:** Submit comments by [INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments related to the Paperwork Reduction Act aspects of the marking, labeling, and instructional literature of the proposed rule should be directed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202-395-6974, or e-mailed to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov).

Other comments, identified by Docket No. CPSC-2018-0015, may be submitted electronically or in writing:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through [www.regulations.gov](http://www.regulations.gov). The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, and insert the docket number, CPSC-2018-0015, into the “Search” box, and follow the prompts.

**FOR FURTHER INFORMATION CONTACT:** Kevin Lee, Project Manager, Mechanical Engineer, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301-987-2486; e-mail: [klee@cpsc.gov](mailto:klee@cpsc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background and Statutory Authority**

The Consumer Product Safety Improvement Act of 2008 (CPSIA, Pub. L. 110-314) was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant and toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The term “durable infant or toddler product” is defined in section 104(f)(1) of the CPSIA as “a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.”

In this document, the Commission is proposing a safety standard for stationary activity centers (SACs). “Stationary Activity Centers” are specifically identified in section 104(f)(2)(G) of the CPSIA as a durable infant or toddler product. Pursuant to Section 104(b)(1)(A), the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and members of the public in the development of this proposed standard, largely through the ASTM process. The proposed rule is based on the voluntary standard developed by ASTM International (formerly the American Society for Testing and Materials), ASTM F2012-18<sup>e1</sup>, *Standard Consumer Safety Specification for Stationary Activity Centers* (ASTM F2012-18<sup>e1</sup>).

The ASTM standard is copyrighted, but it can be viewed as a read-only document during the comment period on this proposal, at: <http://www.astm.org/Standards/F833.htm>, by permission of ASTM.

## **II. Product Description**

### **A. Definition of “Stationary Activity Center”**

ASTM F2012-18<sup>ε1</sup> defines a SAC as “a freestanding product intended to remain stationary that enables a sitting or standing occupant whose torso is completely surrounded by the product to walk, rock, play, spin or bounce, or all of these, within a limited range of motion.”<sup>1</sup> The intended users of SACs are children who have not yet reached the developmental milestone of walking. The product is intended for children who are able to hold up their heads unassisted. SACs vary in style and design complexity, but typically consist of a seating area that is suspended from a frame by springs, or supported from the bottom by a fixed base. The updated standard includes a definition of a “spring-supported SAC,” which is described as “a stationary activity center in which the sitting or standing platform is supported from below or suspended from above by springs (or equivalent resilient members).” For spring-supported SACs, children should not be able to have their feet flat on the ground when using the product. Doorway jumpers are not included in the definition of “stationary activity centers.”

### **B. Market Description**

SACs typically range in price from \$30 to \$150, with spring-supported SACs typically ranging from \$50 to \$150. Some manufacturers produce multiple models and several produce models that are similar in design, but with different accessories. SACs typically accommodate children who weigh less than 25 pounds and have a maximum height of 32 inches.

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<sup>1</sup> ASTM F2012 §3.1.9.

There were approximately 7.5 million (95% confidence interval (CI) between 6.2 million and 8.8 million) SACs in national households with children under the age of 5 in 2013, according to CPSC's 2013 Durable Nursery Product Exposure Survey (DNPES). However, based on the same data, only about 4.1 million of these were actually in use (95% CI between 3.1 million and 5.2 million).

### **III. Incident Data**

The Commission is aware of a total of 3,488 reported incidents related to SACs that occurred between January 1, 2013 and September 30, 2017. The characterization of the deaths, injuries, and types of hazards is based on incident reports received by CPSC staff. Information on 92 percent (3,217 out of 3,488) of the incidents was based solely on reports submitted to CPSC by manufacturers and retailers through CPSC's "Retailer Reporting Program." Because reporting is ongoing, the number of reported incidents may change. The number of emergency department-treated injuries associated with SACs, for the timeframe covered, was insufficient to derive any reportable national estimates.<sup>2</sup> Consequently, CPSC staff is not providing injury estimates. However, the emergency department-treated injuries are included in the total count of reported incidents presented in this section.

#### **A. Fatalities**

CPSC does not have any reports of fatalities associated with the use of SACs occurring between January 1, 2013 and September 30, 2017.

#### **B. Nonfatalities**

The Commission is aware of a total of 304 nonfatal injury incidents related to SACs that reportedly occurred between January 1, 2013 and September 30, 2017.

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<sup>2</sup> According to the NEISS publication criteria, an estimate must be 1,200 or greater, the sample size must be 20 or greater, and the coefficient of variation must be 33 percent or smaller.

Twenty-four children were reported to have been treated at, and released from, a hospital emergency department (ED). A majority of them suffered a fall, resulting in head injuries, limb fractures, and contusions. A few children treated in hospital EDs suffered unexplained foot/leg/pelvic bruising, fractures, and/or swelling while jumping in the product. One child had an allergic reaction to the product's finish or materials, while two children suffered from limb entrapments when using the product.

Among the remaining 280 injury reports, some specifically mentioned the type of injury, while others only mentioned an injury, but provided no specifics about the injury. Fractures, head injuries, concussions, teeth injury, abrasions, contusions, and lacerations were among some of the commonly reported injuries.

The remaining 3,184 incidents reported that no injury had occurred or provided no information about any injury. However, many of the descriptions indicated the potential for a serious injury.

### **C. Hazard Pattern Identification**

CPSC staff considered all 3,488 reported incidents to identify hazard patterns associated with the use of SACs. Most of the reported problems were product-related issues. In order of descending frequency, the problems were as follows:

- ***Spring support*** issues: In 1,617 of the 3,488 incidents (46 percent), there was a report of some sort of a problem with the springs that suspend the seat from the product's frame. In most cases, the springs were reported to have broken, twisted, overstretched, or failed in some other manner. Twenty-seven injuries, including one ED-treated injury, were reported in this category.

- Problems with ***toy accessories***: 1,075 of the 3,488 incidents (31 percent) reported problems with toy accessories attached to the product. The problems were with toys:
  - forcefully striking the child, usually on the face
  - pinching or entrapping limbs or extremities
  - posing a laceration hazard due to sharp edges or surfaces
  - causing gagging while mouthing the toy
  - posing an entanglement hazard because of the long ribbons/strings attached
  - posing a choking hazard due to small parts detaching.

One hundred fifty-six injuries, including two ED-treated injuries, were reported in this category.

- ***Support strap*** issues: 306 of the 3,488 incidents (9 percent) reported straps that tore, frayed, twisted, or detached. The strap system on a SAC is typically the primary means by which most spring-suspended activity centers are supported. If the strap (to which a support spring is attached) fails, the activity center is often left unsupported on one side and typically results in a fall of the child. Thirty injuries were reported in this category.
- ***Structural integrity*** problems: 158 of the 3,488 incidents (5 percent) reported some problem with structural components such as:
  - locks, which led to product collapse, detachment of the top and bottom parts of the exerciser, or failure of the height adjustment mechanism
  - snap buttons/fasteners breaking during regular use, delivery, or assembly/disassembly
  - tube/frame/post separating, bending, or getting damaged in some other manner
  - various small parts (often unspecified) detaching
  - screws/nuts/bolts loosening and falling out.

Twelve injuries were reported in this category.

- Problems with *seats/seat pads*: 122 of the 3,488 incidents (4 percent) reported problems specific to the seat or the seat pad. Examples include:
  - tabs, used to attach the pad to the seat frame, breaking, tearing, or separating
  - the stitching on the pad fraying or tearing
  - the leg openings designed to be inadequately constrictive
  - rough material used for the pad.

Twelve injuries were reported in this category.

- ***Stability*** issues: 76 of the 3,488 incidents (2 percent) reported problems with flimsy and/or unstable products. Specifically, the incidents described:
  - frame/posts/seat/unit leaning to one side and not sitting level
  - legs lifting up during use
  - the product toppling over.

Four children were reported injured in these incidents.

- ***Electrical*** problems: 36 of the 3,488 incidents (1 percent) reported leakage and/or corrosion in the batteries or failure of the circuit board on the product. Two injuries were reported in this category.
- ***Design*** issues: 32 of the 3,488 incidents (1 percent) reported some problems with the design of the product. There were reports of:
  - limb/extremity entrapment between parts of the exerciser
  - failure of the seat to contain the child within
  - poor choice for the placement of structural components that made it easier for a child to get hurt during routine use.

There were 20 injuries, including two treated in a hospital ED, in this category.



- **Miscellaneous other** issues: 22 of the 3,488 incidents (less than 1 percent) reported a variety of other general product-related issues, such as:
  - rough surface, sharp edges, or protrusions
  - paint/finish
  - product packaging
  - fall of product from an elevated surface
  - sales of recalled or modified products at a consignment store or a garage sale.

Thirteen injuries, including four treated at hospital EDs, were reported in this category.

- **Multiple problems** from among the above-listed categories: 20 of the 3,488 incidents (less than 1 percent) reported two or more problems from the preceding product-related issues.<sup>3</sup> CPSC staff could not determine if there was any priority (*e.g.*, primary, secondary) among the order in which issues were reported. Five injuries were reported in this category.
- **Unspecified/Unknown** issues: 24 of the 3,488 incident reports (less than 1 percent) provided incomplete or unclear descriptions of the scenario; as such, CPSC staff was unable to identify the problem. Twenty-three injuries, mostly falls, were reported in this category; 15 of these injuries were treated in a hospital ED.

#### **D. Product Recalls**

Compliance staff reviewed recalls involving SACs from January 2013 to March 2018.

During that period, one consumer-level recall occurred involving a Kids II, Inc., stationary

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<sup>3</sup> Redistributing these 20 complaints among the other pertinent categories already listed does not alter the ranking of the listed categories. However, the redistribution would result in the incident numbers adding up to *more* than the total number of reported incidents. To prevent that, the 20 incidents were grouped in this category separately.

activity center.<sup>4</sup> A recall was initiated because one of the toy attachments on the SAC posed an impact hazard when it rebounded. The recall involved 400,000 units. The firm received 100 reports of incidents, including 61 reported injuries from the hazard. The injuries included bruises and lacerations to the face; in addition, a 7-month-old sustained a lineal skull fracture, and an adult suffered a chipped tooth.

#### **IV. Other Standards and History of ASTM F2012-18<sup>ε1</sup>**

##### **A. International Standards**

CPSC staff found no comparable international standard similar to ASTM F2012-18<sup>ε1</sup> that addresses SACs.

##### **B. History of Voluntary Standard – ASTM F2012**

The voluntary standard for SACs was first approved and published in April 2000, as ASTM F2012-00, *Standard Consumer Safety Specification for Stationary Activity Centers*. The standard has been revised nine times since its publication. The current version, ASTM F2012-18<sup>ε1</sup>, was approved on May 18, 2018.

ASTM F2012-00 (approved on April 10, 2000), established performance requirements to address the following:

- Latching or Locking Mechanisms - for SACs that fold for storage, this requirement helps prevent unintentional folding during use.
- Openings – Assesses the accessibility of slots or cracks in the unit to ensure that the occupant's extremities (fingers, toes) cannot be caught or trapped while not in motion.

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<sup>4</sup> CPSC website link to recalled product: <https://www.cpsc.gov/Recalls/2013/Kids-II-Recalls-Baby-Einstein-Activity-Jumpers/>.

- Scissoring, Shearing, Pinching – Dynamically assesses accessible slots to prevent injury from moving parts throughout the range of movement.
- Exposed Coil Springs – Sets a requirement for the spacing between the coils of any accessible spring element to prevent entrapment.
- Labeling – Assesses the permanency of labeling, as well as label removal, which may involve creating small parts.
- Structural Integrity – Includes dynamic and static loading, to determine any collapsing or failure modes that may occur during the lifecycle of the unit.
- Occupant Retention – Evaluates the leg openings of the activity center to prevent entrapment of the torso, neck, or head.
- Stability – Assesses the stability of a seated occupant leaning outside of the unit.
- Protective Components – Determines whether a child can grasp/bite and remove, protective caps, shields, sleeves, and plugs. If so, determine if a hazard exists (*i.e.*, small parts, sharp edges, sharp points, or entrapments).

Later versions of the standard added other requirements, such as:

protective components for open-base SACs and SACs that do and do not rotate around a central stationary post.

ASTM F2012-18 (approved on March 1, 2018):

- added a definition of “closed-base stationary activity center”;
- added definition of “spring-supported stationary activity center”;
- added section requiring that spring-supported stationary activity centers have a redundant system in place, to prevent the seat from falling should any spring component fail. Upon

failure, the redundant system must keep the child in place at a rest angle no more than 25° from horizontal.

ASTM F2012-18<sup>ε1</sup>, approved on May 18, 2018, corrected errors and made editorial revisions to the standard.

## **V. Adequacy of ASTM F2012-18<sup>ε1</sup> Requirements**

The Commission concludes that the current voluntary standard, ASTM F2012-18<sup>ε1</sup>, sufficiently addresses many of the general hazards associated with the use of SACs, such as sharp points, small parts, lead in paint, scissoring, shearing, pinching, openings, exposed coil springs, locking and latching, unintentional folding, labeling, protective components, flammability, and toy accessories that are sold with the carrier, given the low frequency and low severity of incidents and injuries reported.

This section discusses the four primary hazard patterns that account for the majority of the reported incidents and injuries; Springs – 46 percent, Toy Accessories – 31 percent, Straps – 9 percent; Structural integrity – 5 percent, and how each is addressed in the current voluntary standard, ASTM F2012-18<sup>ε1</sup>.

### **A. Spring Support Failure**

This hazard is associated with 46 percent of the reported incidents (9 percent of injuries). Reports of support spring failures typically involved a common type of SAC scenario, in which the child and activity tray are suspended by springs from multiple points. These hazards often involve the failure of one or more members of the spring system, which causes the occupant to dynamically tilt, tip, topple, or lean from the manufacturer's recommended-use position, which can result in the occupant falling out of the activity center. The 2018 version of the voluntary standard (ASTM F2012-2018<sup>ε1</sup>) addressed spring failures with a performance requirement that

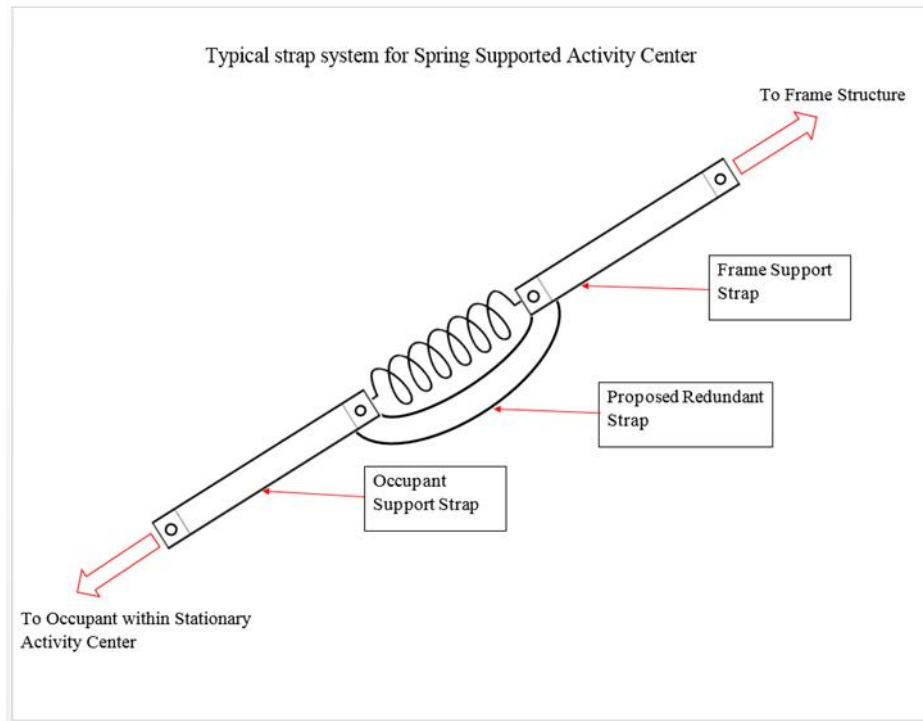
support springs withstand 100 drops from a 33-lb. weight from a height of at least 1 inch. CPSC staff presented the incident data to the voluntary standards committee and suggested a secondary support for load bearing springs. Consequently, ASTM F2012-2018<sup>el</sup> also requires a redundant system to prevent the seat from falling should the spring fail. Because this support strap would function as a fail-safe if springs break, including springs not identified during the dynamic load and life-cycle tests, the Commission concludes that this change will address the hazard pattern identified.

### **B. Problems with Toy Accessories**

This hazard pattern is associated with 31 percent of the reported incidents and 51 percent of the injuries. The majority of the incidents involved pinching, laceration, choking/gagging, and entanglement injuries. ASTM F2012-2018<sup>el</sup> addresses hazards associated with toys, by requiring that toy accessories meet the relevant requirements of ASTM F963-2017, *Standard Consumer Safety Specification for Toy Safety*. The Commission believes that the majority of the hazards related to toy accessories are adequately addressed by ASTM F963; therefore, the Commission believes that the current voluntary standard for stationary activity centers, ASTM F2012-2018<sup>el</sup> adequately addresses this hazard.

### **C. Support Strap Failure**

This hazard pattern is associated with 9 percent of the reported incidents and 10 percent of the injuries, and it includes straps that break, twist, fray, or detach. The strap system on a SAC is typically the primary means by which most spring-suspended activity centers are supported (see Figure 1). Upon failure of the occupant support strap, the activity center is often left unsupported on one side, and this typically results in the child falling.



**Figure 1: Typical strap system for spring-supported activity centers; System is used multiple times on one product to support occupants' weight, and allows occupant to bounce.**

There are no specific requirements for support straps, although ASTM F2012- 18<sup>ε1</sup> requires dynamic and static loading at the seat of the product to evaluate the durability of the support structures for the seat. This testing also stresses the structural integrity components of the product, which include support straps; and the standard requires that the product shows no seam failure, breakage of materials, or changes of adjustments that could cause the product not to support the child fully. The severity of injury produced by this potential hazard is relatively low.

While preparing the briefing package for this notice of proposed rulemaking, CPSC staff learned of an additional failure mode of the occupant support strap. The additional information suggested that some occupant support strap failures have resulted from abrasions of a strap against a metal buckle during normal use. Staff determined that this scenario is not addressed by the requirements in ASTM F2012-18<sup>ε1</sup>. On April 27, 2018, staff sent a letter to ASTM asking

ASTM to consider modifying the standard, as indicated below (underlining indicates language staff suggests added):

6.1 *Structural Integrity*—All tests that cover static and dynamic loading, and occupant retention, are to be performed on the same product, sequentially and without refurbishing or repositioning of adjustment, if any. At test conclusion, there shall be no fraying, tearing, or failure of textile materials, such as seams or straps; breakage of materials; or changes of adjustments that could cause the product to not fully support the child or create a hazardous condition as defined in Section 5. Maximum slippage of adjustable features, if any, is 1 in. (25 mm).

ASTM set up a task group, of which CPSC will be a part, to look into strap-related failures. The Commission invites comments from the public on the necessity of these modifications to the structural integrity requirements.

#### **D. Structural Integrity**

This hazard pattern is associated with 5 percent of the reported incidents and 4 percent of the injuries. Incidents involve failure of structural components, such as locking mechanisms, fasteners, and frame tubing. There are no specific requirements for the structural components of a SAC, but ASTM F2012-2018<sup>e1</sup> requires dynamic and static loading at the seat of the product to evaluate the durability of the support structures for the seat. This testing also stresses the structural integrity components of the product, and the standard requires that the product show no failure of seams, breakage of materials, or changes of adjustments that could cause the product not to fully support the child.

Because of the relatively low frequency of this potential hazard, as well as the minor injury severity produced, the Commission believes that the current voluntary standard adequately addresses the structural integrity of stationary activity centers.

## **E. Warnings**

Before publishing the current version of ASTM F2012-18<sup>e1</sup>, typical warning labels on SACs were composed of paragraph-form messages on a black and white label. Although the labels met the voluntary standard requirements for warning statements at the time, the labels were not conspicuous or consistent in format with other juvenile product warning labels.

Several subcommittee members associated with the ASTM F15 juvenile product/durable nursery products raised concerns about inconsistency among various durable nursery product rules, and ASTM formed an Ad Hoc Wording Task Group to harmonize the wording and language used across nursery product standards. CPSC staff worked closely with the Ad Hoc Task Group to develop recommendations that are based largely on the requirements of ANSI Z535.4, American National Standard for Product Safety Signs and Labels.

In October 2016, the Ad Hoc Task Group published a working document titled, “Ad Hoc Wording – October 16, 2016.” Since then, the juvenile product subcommittees have been incorporating the formatting recommendations into their standards. The latest version of the “Recommended Language Approved by Ad Hoc Task Group, Revision C” document is dated November 10, 2017, and it is published in the “Committee Documents” section of the Committee F15 ASTM website. In August 2017, new requirements for formatting warning labels were balloted and accepted by the F15.17 subcommittee for Stationary Activity Centers, and these new requirements are reflected in F2012-18<sup>e1</sup>.

The work of the Ad Hoc Task Group resulted in permanent, conspicuous, and consistently formatted warning labels across juvenile products. On-product warning labels that meet the requirements in ASTM F2012-18<sup>e1</sup> will address numerous warning format issues related to capturing consumer attention, improving readability, and increasing hazard perception and



avoidance behavior. The Commission concludes that the warnings adequately inform consumers of the fall and strangulation hazards, the consequences of those hazards, and instructions on how to reduce the risks of injury and death due to falls and strangulation.

## **VI. Incorporation by Reference**

The Commission is proposing to incorporate by reference ASTM F2012-18<sup>ε1</sup>, without change. The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a proposed rule, agencies discuss in the preamble to the NPR ways that the materials the agency proposes to incorporate by reference are reasonably available to interested persons, or explain how the agency worked to make the materials reasonably available. In addition, the preamble to the proposed rule must summarize the material. 1 CFR 51.5(a).

In accordance with the OFR's requirements, section IV.B of this preamble summarizes the provisions of ASTM F2012-18<sup>ε1</sup> that the Commission proposes to incorporate by reference. ASTM F2012-18<sup>ε1</sup> is copyrighted. By permission of ASTM, the standard can be viewed as a read-only document during the comment period on this NPR, at <http://www.astm.org/cpsc.htm>. Interested persons may also purchase a copy of ASTM F2012-18<sup>ε1</sup> from ASTM, through its website (<http://www.astm.org>), or by mail from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; <http://www.astm.org>. Alternatively, interested parties may inspect a copy of the standard at CPSC's Office of the Secretary.

## **VII. Effective Date**

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule (5 U.S.C 553(d)). The Commission proposes that the standard become effective 6 months after publication of a final rule in the

*Federal Register*. Barring evidence to the contrary, CPSC generally considers 6 months to be sufficient time for suppliers to come into compliance with a new standard, and this is typical for other CPSIA section 104 rules. Six months is also the period that the Juvenile Products Manufacturers Association (JPMA) typically allows for products in their certification program to shift to a new standard once that new standard is published. The Commission is not aware of any information suggesting that 6 months is not an appropriate time frame for suppliers to come into compliance. Therefore, juvenile product manufacturers are accustomed to adjusting to new standards within this time frame.

## **VIII. Assessment of Small Business Impact**

### **A. Introduction**

The Regulatory Flexibility Act (RFA) requires that proposed rules be reviewed for their potential economic impact on small entities, including small businesses. Section 603 of the RFA requires that agencies prepare an initial regulatory flexibility analysis (IRFA) and make it available to the public for comment when the general notice of proposed rulemaking (NPR) is published, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Commission certifies that this rule incorporating by reference ASTM F2012-18<sup>e1</sup> as a CPSC standard will not have a significant impact on a substantial number of small entities involved in the manufacturing or importing of SACs.

### **B. Small Entities to Which the Proposed Rule Would Apply**

The Commission identified 11 U.S. manufacturers of SACs. The U.S. Small Business Administration (SBA) size guidelines for this category identifies any manufacturer as “small” if it employs fewer than 500 employees. Based on this definition, seven out of the 11 U.S.

manufacturers of SACs would be considered small. For importers, SBA guidelines consider an importer under the NAICS category 423920 (Toy and Hobby Goods and Supplies Merchant Wholesalers) with fewer than 150 employees to be small. The Commission did not identify any small importers of SACs per SBA guidelines.

### **C. Costs of Proposed Rule that Would Be Incurred by Small Manufacturers**

In addition to any costs associated with modifying a product to comply with ASTM F2012-18<sup>el</sup>, which includes the integration of the redundant strap, mandating the standard under Section 104 of the CPSIA would also require manufacturers to certify that their SACs comply with the standard, based on tests conducted by third party conformity assessment bodies. The Commission believes that all seven small domestic manufacturers of SACs are currently certified by the Juvenile Products Manufacturers Association (JPMA), meaning that their products comply with ASTM F2012-16 and the companies are already conducting some third party testing on their SACs.

The additional requirements of ASTM F2012-18<sup>el</sup> may require a minor modification for manufacturers of spring-supported SACs. Of the three such manufacturers, we have confirmed that two have already integrated a redundant strap, a new requirement of ASTM F2012-18<sup>el</sup>. If the third manufacturer has not yet integrated a redundant strap, we believe that the cost to do so would be less than 50 cents per unit.

Additional costs that small manufacturers would incur as a result of the proposed rule, if finalized, include incremental costs associated with meeting the third party testing requirements. This would apply to those that manufacture any type of SAC, not just spring-supported SACs. If the ASTM F2012-18<sup>el</sup> requirements become effective as a CPSC children's product safety rule, all manufacturers of SACs will be subject to the third party testing and certification requirements

under section 14 of CPSA and the Testing and Labeling Pertaining to Product Certification rule (16 CFR part 1107) (1107 rule). Third party testing will include any physical and mechanical test requirements specified in the final SAC rule. The Commission found that all seven small manufacturers of SACs are certified by JPMA and are currently conducting third party testing. Those that manufacture spring-supported SACs will need to have the redundant strap tested to the standard, which we do not estimate will be a significant cost.

Generally, CPSC considers impacts that exceed 1 percent of a firm's revenue to be potentially significant. Because all seven manufacturers are JPMA certified, we believe that the only costs that may be introduced with this standard are for the integration of a redundant strap for one firm and the testing of that strap for all three firms that manufacture spring-supported SACs. Because the smallest manufacturer of spring-supported SACs has annual revenues of approximately \$4 million, we do not expect that the added costs associated with this rule will reach the 1 percent threshold for any of the producers of SACs. However, at this time, CPSC has not considered any potential impact on firms resulting from modifying the current voluntary standard to address the potential for abrasion on the support straps that might cause them to fray or break. Staff intends to work with ASTM on this modification. Any changes to the voluntary standard and/or proposed regulation will be assessed before completing a final rule.

## **IX. Environmental Considerations**

The Commission's regulations address whether we are required to prepare an environmental assessment or an environmental impact statement. 16 CFR part 1021. Those regulations state that certain categories of CPSC actions normally have "little or no potential for affecting the human environment," and therefore, do not require an environmental assessment or an environmental impact statement. 16 CFR 1021.5(c)(1). Rules or safety standards that

provide design or performance requirements for products are among the listed exempt actions. Thus, the proposed rule falls within the categorical exemption.

## **X. Paperwork Reduction Act**

This proposed rule contains information-collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- a title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to the OMB.

Title: Safety Standard for Stationary Activity Centers

Description: The proposed rule would require each stationary activity center to comply with ASTM F2012-18<sup>e1</sup>, Standard Consumer Safety Performance Specification for Stationary Activity Centers. Sections 8 and 9 of ASTM F2012-18<sup>e1</sup> contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of “collection of information,” as defined in 44 U.S.C. 3502(3).

Description of Respondents: Persons who manufacture or import stationary activity centers.

Estimated Burden: We estimate the burden of this collection of information, as follows:

Table 1 – Estimated Annual Reporting Burden

16 CFR Section	Number of Respondents	Frequency of Responses	Total Annual Responses	Hours per Response	Total Burden Hours
1238	11	4	44	1	44

Our estimates are based on the following:

Section 8.1.1 of ASTM F2012-18<sup>ε1</sup> requires that the name and the place of business (city, state, mailing address, including zip code, or telephone number) of the manufacturer, distributor, or seller be marked clearly and legibly on each product and its retail package. Section 8.1.2 of ASTM F833-13 requires a code mark or other means that identifies the date (month and year, as a minimum) of manufacture.

There are 11 known entities supplying stationary activity centers to the U.S. market. These entities may need to modify their existing labels to comply with ASTM 2012-18<sup>ε1</sup>. CPSC estimates that the time required to make these modifications is about 1 hour per model. Each entity supplies an average of four different models of stationary activity centers; therefore, the estimated burden associated with labels is 1 hour per model x 11 entities x 4 models per entity = 44 hours. CPSC estimates the hourly compensation for the time required to create and update labels is \$34.21 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” Sep. 2017, Table 9, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>). Therefore, the estimated annual cost to industry associated with the proposed labeling requirements is \$1, 505 (\$34.21 per hour x 44 hours = \$1,505). There are no operating, maintenance, or capital costs associated with the collection.

Section 9.1 of ASTM F2012-18<sup>e1</sup> requires instructions to be supplied with stationary activity centers. Stationary activity centers generally require use and assembly instructions. As such, products sold without use and assembly instructions would not compete successfully with products supplying this information. Under OMB’s regulations, the time, effort, and financial resources necessary to comply with a collection of information incurred by persons in the “normal course of their activities” are excluded from a burden estimate when an agency demonstrates that the disclosure activities required are “usual and customary.” 5 CFR 1320.3(b)(2). CPSC is unaware of stationary activity centers that generally require use or assembly instructions but lack such instructions. Therefore, CPSC estimates that no burden hours are associated with section 9.1 of ASTM F2012-18,<sup>e1</sup> because any burden associated with supplying instructions with stationary activity centers would be “usual and customary,” and thus, excluded from “burden” estimates under OMB’s regulations. Based on this analysis, the proposed standard for stationary activity centers would impose a burden to industry of 44 hours at a cost of \$1,505 annually.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information-collection requirements of this rule to OMB for review. Interested persons are requested to submit comments regarding information collection by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], to the Office of Information and Regulatory Affairs, OMB (see the ADDRESSES section at the beginning of this notice).

Pursuant to 44 U.S.C. 3506(c)(2)(A), we invite comments on:

- whether the collection of information is necessary for the proper performance of the CPSC’s functions, including whether the information will have practical utility;

- the accuracy of the CPSC’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected;
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and the estimated burden hours associated with label modification, including any alternative estimates.

## **XI. Preemption**

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as “consumer product safety rules,” thus implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

## **XII. Certification and Notice of Requirements (NOR)**

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Section 14(a)(2) of the CPSA requires that



certification of children's products subject to a children's product safety rule be based on testing conducted by a CPSC-accepted third party conformity assessment body. Section 14(a)(3) of the CPSA requires the Commission to publish a notice of requirements (NOR) for the accreditation of third party conformity assessment bodies (or laboratories) to assess conformity with a children's product safety rule to which a children's product is subject. The proposed rule for 16 CFR part 1238, "Safety Standard for Stationary Activity Centers," when issued as a final rule, will be a children's product safety rule that requires the issuance of an NOR.

The Commission published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies*, 78 FR 15836 (March 12, 2013), which is codified at 16 CFR part 1112 (referred to here as Part 1112). This rule took effect June 10, 2013. Part 1112 establishes requirements for accreditation of third party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule in accordance with Section 14(a)(2) of the CPSA. The final rule also codifies all of the NORs that the CPSC had published to date. All new NORs, such as the stationary activity center standard, require an amendment to part 1112. Accordingly, in this document we propose to amend part 1112 to include the stationary activity center standard along with the other children's product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for stationary activity centers would be required to meet the third party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, it can apply to the CPSC to have 16 CFR part 1238, *Safety Standard for Stationary Activity*

*Centers*, included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC website at: [www.cpsc.gov/labsearch](http://www.cpsc.gov/labsearch).

In connection with the part 1112 rulemaking, CPSC staff conducted an analysis of the potential impacts on small entities of the proposed rule establishing accreditation requirements, 77 FR 31086, 31123-26 (May 24, 2012), as required by the Regulatory Flexibility Act and prepared an Initial Regulatory Flexibility Analysis (IRFA). The IRFA concluded that the requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements are imposed on laboratories that do not intend to provide third party testing services under section 14(a)(2) of the CPSA. The only laboratories that are expected to provide such services are those that anticipate receiving sufficient revenue from providing the mandated testing to justify accepting the requirements as a business decision. Laboratories that do not expect to receive sufficient revenue from these services to justify accepting these requirements would not likely pursue accreditation for this purpose. Similarly, amending the part 1112 rule to include the NOR for stationary activity centers would not have a significant adverse impact on small laboratories. Moreover, based upon the number of laboratories in the United States that have applied for CPSC acceptance of the accreditation to test for conformance to other juvenile product standards, we expect that only a few laboratories will seek CPSC acceptance of their accreditation to test for conformance with the stationary activity center standard. Most of these laboratories will have already been accredited to test for conformance to other juvenile product standards and the only costs to them would be the cost of adding the stationary activity center standard to their scope of accreditation. As a consequence, the Commission certifies that the proposed notice requirements for the stationary activity center

standard will not have a significant impact on a substantial number of small entities.

### **XIII. Request for Comments**

This proposed rule begins a rulemaking proceeding under section 104(b) of the CPSIA to issue a consumer product safety standard for stationary activity centers. We invite all interested persons to submit comments on any aspect of the proposed rule.

In particular, the Commission invites comments on the necessity of additional requirements pertaining to the potential fraying of the support straps on SACs.

Comments should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

### **List of Subjects**

#### **16 CFR Part 1112**

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

#### **16 CFR Part 1238**

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, and Toys.

For the reasons discussed in the preamble, the Commission proposes to amend Title 16 of the Code of Federal Regulations as follows:

### **PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES**

1. The authority citation for part 1112 continues to read as follows:

**Authority:** 15 U.S.C. 2063; Pub. L. 110-314, section 3, 122 Stat. 3016, 3017 (2008).

2. Amend § 1112.15 by adding paragraphs (b)(45) through (47) to read as follows:

**§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?**

\* \* \* \* \*

(b) The CPSC has published the requirements for accreditation for third party conformity assessment bodies to assess conformity for the following CPSC rules or test methods:

\* \* \* \* \*

(45) [Reserved]

(46) [Reserved]

(47) 16 CFR part 1238, Safety Standard for Stationary Activity Centers.

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3. Add part 1238 to read as follows:

**PART 1238-SAFETY STANDARD FOR STATIONARY ACTIVITY CENTERS**

Sec.

1238.1 Scope.

1238.2 Requirements for stationary activity centers.

**Authority:** Sec. 104, Pub. L. 110-314, 122 Stat. 3016 (15 U.S.C. 2056a).

**§ 1238.1 Scope.**

This part establishes a consumer product safety standard for stationary activity centers.

**§ 1238.2 Requirements for stationary activity centers.**

Each stationary activity center must comply with all applicable provisions of ASTM F2012-18<sup>e1</sup>, Standard Consumer Safety Specification for Stationary Activity Centers, approved on May 18, 2018. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM

International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428;

<http://www.astm.org/cpsc.htm>. You may inspect a copy at the Office of the Secretary, U.S.

Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD

20814, telephone 301-504-7923, or at the National Archives and Records Administration

(NARA). For information on the availability of this material at NARA, call 202-741-6030, or go

to:

[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

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Alberta E. Mills,

Secretary, Consumer Product Safety Commission

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